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HOUSE BILL No. 29

FILE No. 1

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Introduced by Mr. Weiss, January 14, 1907.

Referred to the Committee on City Corporations.

Ordered printed, January 23 for the use of the Committee.

A BILL

To amend an act, entitled "An act to provide a charter for the city of Detroit and to repeal all acts and parts of acts in conflict therewith," approved June 7, 1883, by adding a new chapter thereto, to be known as chapter 14.

The People of the State of Michigan enact:

SECTION 1. An act, entitled "An act to provide a charter for the city of Detroit and to repeal all acts and parts of acts to conflict therewith," approved June 7, 1883, is amended by adding thereto a new chapter to be known as chapter fourteen, as follows:

CHAPTER 14.

SECTION 1. In the month of July, following the date when this chapter shall become operative, the mayor shall appoint four electors of said city who shall constitute the civil service commission, one for the term of one year, one for the term of two years, one for the term of three years and one for the term of four years; said terms to begin on the first day of August following their appointment. Appointments

shall be made by the mayor annually during said month of July of the successors of each of the said commissioners whose terms will next expire for the full term of four years. Vacancies in said office shall be filled by appointments made by the mayor for the remainder of the unexpired term. Notice of such appointment shall be given to the appointee, and within ten days thereafter the appointee shall make and file in the office of the city clerk the oath of office prescribed by this charter. Said commissioners shall be electors of said city, shall hold no other office or employment under the United States, this state or said city, or any other municipal corporation thereof. Said commissioners shall not receive any salary or other compensation for any duty or duties performed by them, and said commission shall be so constituted that at all times no more than two of the commissioners shall be members of the same political party. Three members shall constitute a quorum. Either of said commissioners may be removed for like causes and in the manner prescribed by this charter for officers holding office by election. The member whose term will next expire shall be chairman of the commission, provided a chairman may be appointed pro tempore when necessary.

SEC. 2. The said commission shall appoint a chief examiner, who shall hold office at the pleasure of said commission and whose duty it shall be, under their direction, to superintend any examinations held under this chapter and who shall perform such other duties as the

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commission shall prescribe. The chief examiner shall be ex-officio secretary of said commission, and under its direction, he, as such secretary, shall keep minutes of its proceedings, preserve all reports, applications and other documents. He shall receive a salary to be fixed by said commission at a sum not exceeding eighteen hundred dollars a year, to be paid in monthly installments by the city. The said commission may also incur such expenses, not exceeding five hundred dollars a year in addition to those otherwise provided for in this chapter, as it may deem necessary for printing and stationery and other incidentals. The common council shall provide the necessary funds to carry into effect the provisions of this chapter. The salaries and necessary expenses for the fiscal year, commencing on the first of July, 1907, shall be paid from the contingent fund. The common council shall provide the necessary rooms for the use of the commission and for the holding of examinations.

SEC. 3. Said commission shall classify all the offices and places of employment with reference to the examination hereinafter provided for, excepting as provided in section eleven of this chapter. The offices and places so classified by the commission shall constitute the classified civil service of said city and all appointments to any such offices or places shall be made, under and according to the rules hereinafter mentioned.

SEC. 4. The said commission shall, in the month of August, 1907,

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and thereafter from time to time, make rules adapted to carry out the purposes of this chapter and not inconsistent with its provisions for the examination and selection of persons to fill the offices and positions in the classified service, which are required to be filled by appointment, and for the selection of persons to be employed in the service of said city. The said commission shall supervise the administration of the rules so established, and they shall, on or before the fifteenth day of December of each year, report to the mayor their doings during the preceding year, including any rules adopted under the provisions of this section.

SEC. 5. The rules mentioned in the preceding section may be made from time to time:

1st. For open, competitive and other examinations, by which to test applicants for office, or, for employment, as to their practical fitness to discharge the duties of the positions which they desire to fill, which examinations shall be public and free to all citizens of the United States, with proper limitations as to residence, age, health, sex, habits and moral character.

2nd. For the filling of vacancies in offices and places of employment in accordance with the results of such examinations, and for the selection of persons for public employment in accordance with such results or otherwise, as may seem most desirable to carry out the provisions of this chapter.

3rd. For promotions in office or position on the basis of ascertained merit and seniority in service and examinations as may seem desirable.

4th. For a period of probation before an appointment or employment is made permanent.

All rules made as hereinbefore provided and all changes therein shall forthwith be printed for distribution by said commission, and the commission shall give notice of the place or places where said rules may be obtained by publication in one or more daily newspapers, published in the city. No rule nor any change in any rule shall take effect in less than ten days from the first publication of notice of its adoption.

SEC. 6. Notice of the time and place and purpose of every examination shall be given by the commission by publication for two weeks preceding such examination in the daily newspaper, in which other official notices, published by order of the common council, may be published, and such notice shall also be posted by said commission in a conspicuous place in their office for two weeks before such examination. Such further notice of examinations may be given as the commission shall prescribe.

SEC. 7. Every person desiring to appear for examination, in order to entitle him thereto, shall file with the commission a statement subscribed by him and made under oath, in which he shall state the facts in relation to the following subjects:

(1) Full name, residence and postoffice address; (2) citizenship; (3)

age; (4) place of birth; (5) health and physical capacity for the public service; (6) previous employment in the public service; (7) business or employment and residence for the previous five years; (8) education. Such other information shall be furnished by the applicant as may reasonably be required for the commission, touching the applicant's fitness for the public service.

SEC. 8. The commission shall control all examinations and may, whenever an examination is to take place, designate a suitable number of persons, either in or not in the official service of the city, to be examiners, and it shall be the duty of such examiners, and, if in the service of the city, it shall be a part of their official duty, without extra compensation, to conduct examinations as the commission may direct, and make return or report thereof to such commission; and the commission may at any time substitute any other person, whether or not in such service, in the place of any one so selected, and the commission may themselves at any time act as such examiners and without appointing examiners. The examiners at any examination shall not all be members of the same political party, and no person shall serve in an examination of candidates for office, or employment, under the provisions of this chapter, in case of a relative or connection by marriage within the degree of first cousin.

SEC. 9. From the returns or reports of the examiners, or from the examinations made by the commission, the commission shall prepare

a register for each grade or class of positions in the classified service of the city of the persons whose general average standing upon the examination for such grade or class is not less than a minimum fixed by the rules of such commission and who are otherwise eligible, and such person shall take rank upon the register as candidates in the order of their relative excellence, as determined by such examination, without reference to priority of time of examinations.

SEC. 10. The head of the department or office in which a position classified under this chapter is to be filled, shall notify said commission of that fact, and said commission shall certify to the appointing officer the names and addresses of the three, if there be so many, candidates standing highest upon the register for the class or grade to which said position belongs. And if there be more than three candidates of the same rank and standing highest upon the register, then the three names to be certified shall be determined by lot by said commission. The appointing officer shall notify said commission of each position to be filled separately and shall fill such place by the appointment of one of the persons certified to him by said commission therefor, which appointment shall be on probation for a period to be fixed by said rules. Said commission may strike off the names of candidates from the register after they have remained thereon more than two years. At or before the expiration of the period of probation, the head of the department or office in which a candidate is employed may, by and with

the consent of said commission, discharge him, upon his assigning, in writing, his reason therefor to said commission. If he is not then discharged, his appointment shall be deemed complete. To prevent the stoppage of public business, or to meet extraordinary exigencies, the head of any department or office may, with the approval of the commission, make a temporary appointment, to remain in force not exceeding sixty days and only until regular appointment under the provisions of this chapter can be made. Persons performing labor, merely, and receiving a compensation not exceeding one dollar and seventy-five cents per day of eight hours, shall be registered in the order of application, and when a requisition shall be made by any department for laborers, the names shall be drawn by lot, provided that the commission may give preference to those having dependent families and those who in any previous employment have shown skill and adaptation for the particular work for which the labor is required.

SEC. 11. The following officers and subordinates shall not be affected as to their election, selection or appointment by the rules made by said commission, viz.: Officers elected by the people, or who are by statute required to be appointed by the mayor or by the common council on the nomination of the mayor; inspectors and clerks of election; employees of the public library commission; superintendents, teachers and other employees of the board of education; superintendent and other employees of the board of inspectors of the house of correction;

members of the law department; deputies, secretaries and assistants of any of the departments or commissioners who, in case of a vacancy in office or inability of the chief of the department or commission to perform his duties, would be entitled to perform the duties of the office until the vacancy is filled or the inability removed; the mayor's secretary and stenographer; the secretary to the committees of the common council; the officers, detectives, roundsmen, doormen and patrolmen of the police department; the officers and members of the fire companies appointed by the board of fire commissioners; and any other officers, clerks and employees whose positions, in the judgment of said civil service commission, cannot for the time being be subjected with advantage to the public service to the general rules prepared under this chapter. The police commissioner and board of fire commissioners may request the civil service commission to cause any applicants for position in their departments above excepted to be examined by said commission, and said commission shall make such examination and report the result thereof to said police commissioner or board of fire commissioners requesting such examinations. Excepting as above provided, all officers, clerks and subordinates of all the offices, departments and commissions of said city, whether now existing or hereafter created, including the board of health, board of water commissioners, board of fire commissioners, commissioners of police, parks and boulevards

and public works, public lighting commission and board of poor commissioners, shall be selected and appointed as herein provided, but the officers, clerks and other employees now in the service of said city, or who may be on the 30th day of June, 1907, unless removed for cause, or by expiration of their term shall be entitled to retain their positions until said commissioners shall be appointed and enter upon the performance of their duties, and then they may be removed as herein provided for appointments under said rules. They shall have all the rights which they would acquire if appointed upon examination under these rules, except that they shall not be transferred without first passing the examination, provided by said commission.

SEC. 12. The commission shall, by its rules, provide for promotions in such classified service, on the basis of ascertained merit and seniority of service and examination, and shall provide, in all cases where it is practicable, that vacancies shall be filled by promotion. All examinations for promotion shall be competitive among such members of the next lower rank as desire to submit themselves to such examination, and it shall be the duty of the commission to submit to the appointing power the names of not more than three applicants for each promotion having the highest rating. The method of examination and the rules governing the same and the method of certifying shall be the same as provided for applicants for original appointment.

SEC. 13. No officer or employee in the classified civil service who

shall have been appointed under said rules and after such examination, shall be removed or discharged except for cause, upon written charges, and after an opportunity to be heard in his own defense. Such charges shall be investigated by or before said civil service commission, or by or before some officer or board appointed by said commission, to conduct such investigation. The finding and decision of such commission, or investigating officer or board, when approved by said commission, shall be certified to the appointing officer, and shall be forthwith enforced by such officer. Nothing in this chapter shall limit the power of any officer to suspend a subordinate for a reasonable period, not exceeding thirty days. In the course of an investigation of charges, each member of the commission and of any board so appointed by it, and any officer so appointed, shall have the power to administer oaths, and said commission shall have power to secure by its subpoena both the attendance and testimony of witnesses and the production of books and papers relevant to such investigation.

Sec. 14. Immediate notice in writing shall be given by the appointing power to said commission of all appointments, permanent or temporary, made in such classified civil service, and of all transfers, promotions, resignations, or vacancies from any cause in such service, and of the date thereof; and a record of the same should be kept by said commission. When any office or place of employment is created or abolished, or the compensation attached thereto altered, the officer or

board making such change shall immediately report it in writing to said commission.

SEC. 15. Said commission shall investigate the enforcement of this chapter and of its rules and the action of the examiners herein provided for and the conduct and action of the appointees in the classified service, and may inquire as to the nature, tenure and compensation of offices and places in the public service. In the course of such investigation each commissioner shall have power to administer oaths and said commission shall have the power to secure by its subpoena both the attendance and testimony of witnesses and the production of books and papers relevant to such investigation. All officers of said city shall aid said commission in all proper ways in carrying out the provisions of this chapter. The common council shall have power to enact all suitable ordinances to enforce the provisions hereof, and the circuit court for the county of Wayne shall have power, by mandamus, writ of injunction or other proper process at the suit of said commission or of the Attorney General or of any person aggrieved, to enforce the provisions hereof.

SEC. 16. No person habitually using intoxicating beverages to excess shall be appointed to or retained in any office, appointment or employment to which the provisions of this chapter are applicable. Whenever there are already two or more members of the same family in the public service, in the offices or positions covered by this chapter, no other

member of such family shall be eligible to appointment to any of said offices or positions.

SEC. 17. No question in any form of application or in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant, nor shall any inquiry be made concerning such opinions or affiliations, and all disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened, or promised by any person in the executive civil service against or in favor of an applicant, eligible or employee in the classified service because of his political or religious opinions or affiliations, and no recommendations of an applicant, eligible or employee in the competitive service involving a disclosure of his political or religious opinions or affiliations shall be considered or filed by the commission or by any officer concerned in making appointments or promotions.

SEC. 18. No person or officer shall willfully and corruptly, by himself or in cooperation with one or more other persons, defeat, deceive or obstruct any person in respect to his or her right of examination, or corruptly or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing or willfully or corruptly make any false representations concerning the same, or concerning the person examined, or willfully or corruptly furnish to any person any special or secret information for

the purpose of either improving or injuring the prospects or chances of any person so examined or to be examined, being appointed, employed or promoted.

SEC. 19. The civil service commissioners shall certify to the controller all appointments to offices and places in the civil service of the city, subject to their rules, and all vacancies occurring therein, whether by dismissal, resignation or death. Neither the controller of said city nor any other officer concerned in the auditing or paying of salary or wages or other claims shall approve the payment of or be in any manner concerned in paying any salary or wages to any person, subject to such rules, for services as an officer or employe in said city, before the appointment of such person to the city service has been certified by the said commission to the controller, nor after the vacation of such persons, office or employment shall have been so certified.

SEC. 20. No applicant for appointment in said classified service, either directly or indirectly, shall pay or promise to pay any money or other valuable thing to any person whatever, for or on account of his appointment or proposed appointment, and no officer or employee shall pay or promise to pay, either directly or indirectly, to any person any money or other valuable thing whatever for or on account of his promotion.

SEC. 21. No applicant for appointment or promotion in said classified civil service shall ask for or receive a recommendation or assist-

ance from any officer or employee in said service, or of any person upon the consideration of any political service to be rendered to or for such person or for the promotion of such person to any office or appointment.

SEC. 22. No officer or employee of such city shall discharge or degrade or promote, or in any manner change the official rank or compensation of any other officer or employee or promise or threaten to do so for giving or withholding or neglecting to make any contribution of money or other valuable thing for any party or political purpose, or for refusal or neglect to render any party or political service.

SEC. 23. No officer or employee of such city shall solicit, orally or by letter, or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any party or political purpose whatever.

SEC. 24. No person shall solicit, orally or by letter, or be in any manner concerned in soliciting any assessment, contribution or payment, for any party or any political purpose whatever, from any officer or employee in any department of the city government.

SEC. 25. No officer or employee in the service of such city shall, directly or indirectly, give or hand over to any officer or employee in said service, or to any senator, or representative, or alderman, or commissioner, any money or other valuable thing, on account of or to be applied to, the promotion of any party or political object whatever.

SEC. 26. No person, while holding any office in the government of such city, or in nomination for, or while seeking a nomination for, or appointment to any such office, shall corruptly use or promise to use, either directly or indirectly, any official authority or influence (whether then possessed or merely anticipated) in the way of conferring upon any person, or in order to secure or aid any person in securing any office or public employment, or any nomination, confirmation, promotion or increase of salary upon the consideration or condition that the vote or political influence or action of the last named person or any other shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt condition or consideration.

SEC. 27. Any person who shall be served with a subpoena to appear and testify, or to produce books and papers, issued by the commission or by any commissioner, or by any board or person acting under the orders of the commissioner, in the course of an investigation conducted under the provisions of this chapter, and who shall refuse or neglect to appear or to testify, or to produce books and papers relevant to said investigation, as commanded in such subpoena, shall be guilty of a misdemeanor, and shall, on conviction, be punished as provided in section 28 of this chapter. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of this state, and shall be paid from the appropriation for the expenses of the commission. The circuit court for said county of Wayne, or any

judge thereof, either in term, time or vacation, upon application of any such commissioner or officer, or board, may, in his discretion, compel the attendance of witnesses, the production of books and papers, and giving of testimony before the commission, or before any such commissioner, investigating board or officer, by attachment for contempt or otherwise, in the same manner as the production or evidence may be compelled before said court. Every person who, having taken an oath or made affirmation before a commissioner or officer appointed by the commission authorized to administer oaths, shall swear or affirm willfully, corruptly and falsely, shall be guilty of perjury, and upon conviction shall be punished accordingly.

SEC. 28. Any person who shall willfully, or through culpable negligence, violate any of the provisions of this chapter, or any rule promulgated in accordance with the provisions thereof, shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not less than fifty dollars and not exceeding one thousand dollars, or by imprisonment in the Detroit house of correction for a term not exceeding six months, or both such fine and imprisonment in the discretion of the court.

SEC. 29. If any person shall be convicted under the next preceding section, any public office or place of public employment which such person may hold shall, by force of such conviction be rendered vacant and

the officer, board or body having the power of removal shall immediately without further evidence than the record of conviction, remove him from such office and employment, and such person shall be incapable of holding any office or place of public employment in said city for the period of five years from the date of such conviction.

SEC. 30. Prosecutions for violations of this act may be instituted either by the attorney general, the prosecuting attorney for the county, or by the commission acting through special counsel. Such suits shall be conducted and controlled by the prosecuting officers who institute them, unless they request the aid of other prosecuting officers.

SEC. 31. The commissioner of public works shall appoint and superintend the work of engineers, firemen, elevator conductors and other persons whose duty it shall be to make repairs or do any other mechanical work in the city hall and municipal court building. The controller shall act as custodian of the city hall and municipal court building, shall appoint the janitors and supervise their work. He shall also appoint the clerks of the market, weighmasters and keepers of the public pounds, and they shall report to him and act under his direction.

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HOUSE BILL NO. 29.

FILE NO. 1.

A BILL to amend an act, entitled "An act to provide a charter for the city of Detroit, and to repeal all acts and parts of acts in conflict therewith," approved June 7, 1883, by adding a new chapter thereto, to be known as chapter 14.

Passed the House.....*1907*

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Clerk of the House of Representatives.

Passed the Senate.....*1907*

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Secretary of the Senate.